

SPRINGFIELD TOWNSHIP  
ZONING BOARD OF APPEALS  
September 21, 2016

Call to Order: Chairperson Wendt called the September 21, 2016 Zoning Board of Appeals meeting to order at 7:30 pm at the Springfield Township Civic Center, 12000 Davisburg Road, Davisburg, MI 48350.

In attendance:        Virginia Fischbach  
                             Denny Vallad  
                             Skip Wendt  
                             Bill Whitley

Absent:                 Dean Baker

AGENDA:

**Board member Whitley moved to accept the agenda as published. Supported by Board member Fischbach. Vote yes: Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: Baker. Motion approved.**

PUBLIC COMMENT:        None

CONSENT:                Minutes of the August 17, 2016 meeting

**Board member Whitley moved to APPROVE the minutes August 17, 2016 meeting as presented. Supported by Board member Vallad. Vote yes: Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: Baker. Motion approved.**

NEW BUSINESS:

*1. Request from AJD Management, 8700 Dixie Highway, Clarkston 48346 for a variance to allow temporary parking and storage of vehicles for two (2) years with possible one (1) year administrative extension instead of the time period allowed per Springfield Township Code of Ordinances, Chapter 40, Section 40-645 and to allow the temporary storage of vehicles in a C-2 General Business District instead of the M-1 Light Industrial District allowed per Springfield Township Code of Ordinances, Chapter 40, Section 40-681.*

*The property that is the subject of the request is located at 8731 Dixie Highway in Springfield Township and is zoned C-2 General Business. P.I.#07-24-101-011.*

Vincent Catallo, architect, introduced himself as present on behalf of the applicant. He stated that the applicant is seeking to park cars in the existing lot with the existing striped spaces. It would be a temporary use.

Chairperson Wendt asked what was the reason for the need for additional parking.

Mr. Catallo replied that it wasn't additional parking. The applicant wants to park in existing parking spaces. The applicant bought a 20-acre parcel and the adjacent day care which has an existing paved lot and existing storm sewer system. The applicant wants to park spaces in existing lot.

Board member Whitley asked about the 20-acre parcel.

Mr. Catallo replied that the 20-acre parcel is adjacent to the subject parcel.

Board member Whitley asked about the long term need that would demonstrate this need for temporary parking.

Mr. Catallo stated that the long term plan is an expansion to the current dealership on the 20-acre parcel.

Board member Whitley asked what was the long term solution to the need for temporary parking.

Mr. Catallo replied that the long term solution is the complete development of the 20-acre parcel and the subject lot.

Board member Vallad stated that the 20 acres that were purchased by the applicant was the church soccer fields. The applicant also purchased the small parcel next to this where the daycare center and parking lot exist; this parcel is the subject of this request. The applicant is proposing the parking in the Children's Ark parking lot.

Chairperson Wendt stated that currently there is a lot adjacent to the dealership that is being used for temporary parking. In area, how different or same is the new facility going to be to what is going on right now.

Mr. Catallo stated that the new facility's plans are being developed. He does not have a Master Plan as to what that new development will look like. All that is being asked today is for the applicant to be able to park cars on the existing lot that he purchased for a temporary period of time.

Board member Whitley asked if this would eliminate the parking on the adjacent Bordine's lot or would this be in addition.

Mr. Catallo stated that they are not looking to take away what has already been approved.

Board member Whitley summarized the decision on the Bordine's lot. If they add it together, it is five years of temporary parking. He is looking for what is in place to eliminate the need for variances for finite and temporary period of time. He asked what is different between this request and the prior request that did not result in a permanent solution.

Mr. Catallo stated that the applicant just bought 20 acres. The end goal is to build a new dealership to move all of those cars to.

Board member Whitley stated that he understands there are engineering and site plan issues to go through as the plan is developed for a new dealership. The variance on the Bordine's property will expire in a year and is there some alternative in the works so that Bordine's property is not necessary. He asked how the dots fits together in the expiration of the existing variance dovetailing with the request tonight and resulting in a permanent solution.

Mr. Catallo stated that these are two issues. The obvious answer is that a new dealership will be built and all of the cars will be cleaned up. He stated that when the Bordine's property variance expires, he will be dealing with the Board again. The two items are not related.

Board member Whitley suggested that they are related. They asked for a final solution two years ago and here they are without a final solution being presented to them.

Mr. Catallo stated that this is a business owner that has invested a lot of money in the area and will change the area to the positive. He is not understanding why this is such a struggle; he is not trying to run a shady operation.

Chairperson Wendt indicated that this had nothing to do with the issue.

Mr. Catallo asked if the Board members saw a preliminary plan, would this alleviate the Board's concern. He needs that the presentation of the plan be private with just the Board members.

Board member Whitley replied that his questions have nothing to do with the fact that he values the business owner's presence in the Township.

Supervisor Walls stated that this is a public meeting and anything that is shown by Mr. Catallo will become part of public record.

Mr. Catallo stated that there are confidentiality issues since the development is in the planning works. They have put together concepts at this point. He stated that he just wants to park cars, he doesn't want to put bright lights up.

Mary Reed, 9042 East Bluewater Drive, asked about the zoning of the property.

Supervisor Walls stated that the zoning changed from residential to General Business which is the zoning that is needed for an automobile dealership. He described the ordinance provision which allows for off-site parking.

Ms. Reed asked how many parking spaces.

Board member Vallad replied 70 on asphalt.

Ms. Reed stated that she received no notification of this meeting.

Chairperson Wendt replied that it was published in the Oakland Press.

Board members confirmed that the agenda is posted on the website.

Board member Vallad stated that personal notices are sent out within 300 feet.

Board members looked at the map and confirmed that Ms. Reed's address was outside of 300 feet of the subject property.

Clerk Moreau stated that anyone can contact the Clerk's Office tomorrow and they can arrange a method so that these residents can be notified.

Board member Vallad asked how many cars are parked on the Bordine's property.

Mr. Catallo replied he did not know.

Board member Vallad stated that the applicant received a one-year extension for the Bordine's parking lot and at that time, the cars are going to have to be moved.

Mr. Catallo offered to meet with residents when it was appropriate to go over the plan and address their concerns.

**Board member Vallad moved to approve the request for a variance for the applicant to use the former property Children's Ark to park vehicles on the asphalt surface, parcel ID 07-24-101-011 for a period of up to two years with no administrative approval for an additional year. Supported by Board member Fischbach.**

Board member Whitley stated that he wishes there would have been more clarity on the long term plan.

**Vote yes: Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: Baker. Motion approved.**

2. *Request from Karen Hoke, 8356 High Meadow Trail, Clarkston, 48348 to build a home resulting in the following four (4) variances:*

- a. *Distance from a structure to the high water mark of Big Lake of eighteen (18) feet rather than the 50 feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639*
- b. *Distance from a septic system to the high water mark of Big Lake of fifty (50) feet rather than the one hundred (100) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639*
- c. *Side setback of ten (10) feet rather than the fifteen (15) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572*
- d. *Front setback of thirty-two (32) feet rather than the fifty (50) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572*

*The property that is the subject of the request is located at 6160 Wertz in Springfield Township and is zoned R2 One-family residential. P.I. #07-28-204-047.*

Ms. Hoke introduced herself, Greg Stafford, Architect, and Dave Wardin, Civil Engineer, to the Board.

Mr. Stafford presented the plans for the weekend cottage to the Board members. It is a triangular small piece of property. They tried to create a plan that was respectful of the neighbors and lake views. Most of the homes in this area have variance issues. The first and most important was getting a septic to work on the property. Kieft Engineering has worked on this and they are in the process of getting it approved by Oakland County. There used to be a home on the property which burned down. The footprint that they are observing is that footprint. He provided not only the footprint, but also the plans for the home to the Board members.

Board member Fischbach asked where the original septic was on the property.

Mr. Wardin answered that it was up in the front yard.

Ms. Hoke replied that when they did the perk test, they uncovered a tank.

Mr. Wardin stated that the exact size of the field was unknown and there were no details available from Oakland County Health Department.

Mr. Stafford stated that the house is relatively small with two bedrooms. They are building a house with the minimal size.

Board member Fischbach stated that she agrees on the two bedrooms but verified that the square footage of the proposed home is 3000 square feet.

Chairperson Wendt asked if Mr. Stafford felt that the proposed house was in the same fashion as the adjacent properties.

Mr. Stafford replied no; he thinks this is better. It is cutting edge architecture and a very nice looking home. He provided details of the design. He stated that lake living is where you can get away with eclectic style homes.

Chairperson Wendt would agree except when they start rising in elevation to the extent that this one is. The skyline would look quite different from the water.

Mr. Stafford stated that they are trying to do a third floor widow's walk and they do not know if they would need a height variance or not. This is a good footprint as far as what they are trying to do with the setbacks. As far as the height, he would agree that if the 3<sup>rd</sup> floor works, great. If it is too high, they will address that at that time.

Board member Vallad asked what the height was.

Mr. Stafford replied that it would depend on how it was measured. If it is the height of the cupola or the mid-roof but it is an average of 35 feet. This was an idea that they had and if they have to eliminate it, they will do that. He would like the setback variances granted tonight.

Chairperson Wendt asked what hardship would there be in moving the proposed home further from the house on the left.

Mr. Stafford stated that the challenge is the septic system on the other side of the home and this was the point that they started. The side yard setbacks are no more than the former house was. He stated that it is busy in the summertime and they wanted to provide parking so people can park on their property. They are only proposing a one car garage. The driveway is coming out and redone and landscaped properly.

Board member Vallad asked about the area required for the Eljen system.

Mr. Wardin replied that two-bedroom house on optimum soils requires 380 square foot per bedroom and they meet the requirements and it will be acceptable for Oakland County.

Board member Vallad agrees that the septic has to go there. He asked if they could support three levels with those soils.

Mr. Stafford replied that the footings would be designed appropriately. It is not a heavy house.

Board member Fischbach asked where the neighbor's septic is.

Mr. Stafford replied he did not know.

Resident replied that it is within 30 feet of their proposed well.

Mr. Stafford replied that the site is challenging. It is not a buildable lot without variances.

Board member Vallad stated that he does not have an issue with the footprint but he does have an issue with the height because it is not going to meet the ordinance. He asked about the cellar under the garage being converted to a bedroom.

Mr. Stafford replied that this conversion would not be possible because there are no windows; this spot is for storage.

Board member Vallad stated he also has an issue with the distance from the well to the septic on the left.

Mr. Wardin suggested moving the well to the other side.

Board member Fischbach asked why they were asking for 50 feet when it is drawn out to 53 feet.

Mr. Stafford replied that this was a clerical error.

Board member Fischbach replied that they are being asked to move systems closer and closer to the water and they have no guidance from the Planning Commission or anyone else to say how much safer an Eljen system is without worrying about the lake.

Patricia Turner, 6174 Wertz, stated they wrote a letter and provided it to the Board members. Her concern is that the previous house caught fire and burned down and almost burned their house down. The only reason that their house did not burn down was due to the cinder block walls and the fact that the firemen got there quickly. She has concerns about the closeness of the house catching fire and burning her house down.

Mr. Stafford replied that conversely her house could catch on fire and burn down the proposed house.

Ms. Turner replied that the line of trees was burned down in the fire and this is where the proposed fire place is now.

Ms. Hoke commented that there will be landscaping going in.

Chairperson Wendt replied that the Board cannot predict things like this.

Mr. Stafford stated that it will be a pre-fab gas fireplace.

Patrick Turner, 6174 Wertz, reviewed his letter. He would like the side setback respected. He would like his requests honored.

Chairperson Wendt stated that the house at 6174 Wertz has a side yard setback variance.

Mr. and Mrs. Turner replied that they are many feet from the adjacent house.

Mr. Richard Parke, 6161 Wertz, supported the Hoke request.

Board member Whitley stated that each variance request stands on its own merit. The uniqueness is that they are considering setbacks for a building or accessory building. In this case, it is filling in a vacant lot and by the applicant's own words, this is an unbuildable lot. He wonders at what point is our ordinance an ordinance and when does it get applied. In the case of an already existing home where a person needs a deck or a garage, that is continuing the ability to enjoy existing property. In this case, it is creating a nonconformance and it concerns him.

**Board member Whitley moved to deny the request given the significant number of variances and the significance of all of those variances and the fact that this appears to be an unbuildable lot. Supported by Board member Fischbach. Vote yes: Fischbach, Wendt, Whitley. Vote no: Vallad. Absent: Baker. Motion approved.**

*3. Request from Kelly Katnik, 6032 Long Point Drive, Davisburg 48350 to construct an accessory building resulting in the following variances:*

- a. Distance from a septic system to the high water mark of Big Lake of twenty five (25) feet rather than the one hundred (100) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639*
- b. Side setback of four (4) feet rather than the fifteen (15) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572*
- c. Front setback of six (6) feet rather than the fifty (50) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572*

*The property that is the subject of the request is located at 6032 Long Point Drive in Springfield Township and is zoned R2 One family residential. P.I. #07-28-251-017.*

Ms. Kelly Katnik introduced herself to the Board. She is trying to complete a home to enjoy by adding a garage.

Chairperson Wendt asked why she needs a two car garage.

Ms. Katnik replied for storage and additional parking.

Chairperson Wendt asked if the applicant was open to a one car garage.

Ms. Katnik replied that she could investigate this.

Chairperson Wendt asked if the applicant could move the garage back away from the road so that it lines up with the other properties.



Ms. Katnik answered that she could do that.

Chairperson Wendt stated that he could not justify a two car garage on a 40-foot lot.

Board member Whitley stated that there are two variance requests, one if for the garage and the other is a significant request for a septic 25 feet from the water. Given the size of the lot, it appears like they need to choose one or the other. On this lot, one could have a garage or one could have a septic. The garage is a mutually exclusive option to having a septic in an acceptable location. The 25-foot setback for the septic is unacceptable.

Julia Turner, Powell Engineering, stated that she is the person who designed the septic field. Prior to looking at the garage, they investigated all options for the septic. They looked at both the lake side and the road side for the septic and the road side was found to be unfit. There are three wells in the area and there is no way to relocate them and maintain the 50 feet from the septic of those properties. For those reasons, they placed the septic on the lake side and added the Eljen pre-treatment and they are maintaining a 5-foot distance from the water table for the pre-treatment. This is a passive system that cleans it better than a regular system and they are adding a filter on the existing septic tank. This system has also been approved by Oakland County and it was approved before they looked at placing the garage on the property.

Chairperson Wendt asked when Ms. Katnik purchased the property, did she know there was not a septic system.

Ms. Katnik replied she was unaware; it was not listed as having one.

Board member Whitley stated that this strikes him as another unbuildable lot. Without a septic, it cannot be occupied.

Board member Fischbach stated that she does not know what the right system is, but 25 feet is unacceptable and she needs real information regarding the system.

Ms. Turner replied that she would gladly get the Board members information about the system. This lot has ideal soils and with some kind of clay, it would not be optimum. The water table is a concern and vertically it is much greater than most systems that she has engineered.

Board member Whitley stated that the ordinance has a 100-foot setback and they have had variances and struggled with 50 feet. This would be a 75% variance and it is a greater leap than they have data to support it.

Mr. John Katnik, applicant's father, stated that the house is already there and they don't see any other option besides tearing down the house.

Mr. Ed Salter, 6019 Long Point, stated that he was hired by the former owner to prepare a plan for the septic system. At the time, he suggested going with Norweco pre-treatment

with shallow trenches and the Oakland County got approval with the 25 foot off of the lake. He has an issue with the proposed garage sticking out beyond the neighboring garage and the storage shed to the south. He would prefer to see a one car that could be slid back to line up with other garages. They could reinforce the floor and get more storage space under the floor to allow for more storage.

Ms. Turner asked if the Board would table the item to provide more information. She looked at both the Norweco and Eljen systems for the site.

Board member Fischbach asked if she would bring back comparison information on the two systems and why one would go with a particular system over the other one.

Ms. Turner stated that they proposed the Eljen system because in these types of soils, they Health Department allows a reduction in size. The Eljen system consists of perforated bends which allows for more treatment in a smaller area.

**Board member Vallad moved to table the variance request at 6032 Long Point Drive to allow applicant to provide additional information relative to the septic systems proposed and to investigate a smaller footprint garage and location. Supported by Board member Fischbach. Voted yes: Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: Baker. Motion approved.**

*4. Requests for: a) an appeal of the administrative decision of the Supervisor that the home occupation at the property located at 9782 Clark Road, Parcel #07-23-101-005 is in violation of Springfield Township Code of Ordinances ("Code") Chapter 40, Section 40-649(4)-Home Occupation; and b) a variance requesting that Code Chapter 40, Section 40-649(4), subsections (b), (g) and (i) not be strictly applied.*

*The property that is the subject of the request is located at 9782 Clark Road in Springfield Township and is zoned R1A One family residential. P.I. 07-23-101-005.*

**Board member Whitley moved to adopt the specific Order of Proceedings for the 9782 Clark Road matter as has been presented to the Board. Supported by Board member Vallad. Voted yes: Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: Baker. Motion approved.**

Copies of the Order of Proceedings were provided to the applicant and Supervisor.

Chairperson Wendt read aloud an email received from Linda Gooden, 9785 Clark Road.

Mr. Tim Crawford, attorney for Barbara Hensel, introduced himself to the Board. He stated that this has been a directed campaign directed against Ms. Hensel. This case has been going through the EPA, the Office of Regulatory Affairs, the MDEQ and has resulted now in a municipality code violation. This is a neighborly dispute which is threatening his client's business. Ms. Hensel is a productive member of the Township, member of churches, member of a book club and the reason she put the addition on her

home was to host these types of events. Ms. Hensel is a hairdresser and dedicates several hundred square feet to a salon that she has in her lower level which has an access to the outside. This access is accessible via a rear driveway which can be used to host her parties and events in the backyard. This parking area also serves to be an area for her clients to use to access her business. It also allows handicapped patrons to access her business and get their hair done and to change that would be a tremendous burden on Ms. Hensel.

Mr. Crawford stated that they submitted a comprehensive summary of what has gone on and he reiterated some particulars including information that the attorney and the planner went over in their communication which are contrary to what they submitted a year prior. He stated that between April 2015 and July 2016 the summaries were significant and the only thing that has changed is the date. The Township Planner and the Township Attorney's memorandums talk about the character of the residence. In 2015, the assistant to the Attorney lays out in broad detail why both the code enforcement officer and the attorney believe that the property is in conformance as it appears. It is a beautiful home and addition that was put on added significant square footage and the home conforms to other homes in the area. It meets all of the setbacks, meets building codes and doesn't have any outside signage indicating that there is a home occupation. The home, by outside appearance, meets the qualifications of residential property.

The planner and by proxy the attorney and now the Supervisor are seemingly hanging their hats on the fact that the subject home has a driveway with a separate parking area to the lower level of the house. But having a second driveway does not violate any Township ordinance and having a second driveway makes it fit into the character of the neighborhood. If you look at the aerial photos of Clark Road and surrounding roads, you would find that the majority of homes have second driveways, some are paved and some are dirt but having a paved driveway helps keep the maintenance down. Ms. Hensel has a secondary paved drive to make it accessible to her friends and accessible to her clients. The argument by the Planner, Attorney and the Supervisor would lead you to believe that paving your secondary driveway changes the residential character of your home. The appearance of the home is that of any other house in the neighborhood and seeing cars parked in the driveway doesn't tell you there is a home occupation. The only way you know that is by going inside the home. But, the cars that are parked in the secondary drive could be her church group, or her book club and this is not a commercial parking lot. She conducts business during off peak times and doesn't have cars coming and going at all hours of the day and night. The traffic at any one time is two or maybe three cars in the parking lot. To say that the use and the appearance change the residential character of the home is flawed and it is dangerous. They are making conclusions based on having a paved driveway and a few cars in the driveway. To the use aspect, Ms. Hensel uses this secondary drive either two or two and one-half days per week and to say that 20 hours that she is in operation out of 168 hours per week changes the residential character of this home to a commercial one is silly. This is only 12% of the week. Even when she is using the home for her business, it is still being used as a home to her children and boyfriend.

He continued citing the planner and the attorney responses in which the planner said that alterations have been made to the dwelling unit whereas the attorney said no alterations have been made to the dwelling unit that changed the appearance. There is no outside display or evidence of a home occupation. This is directly related to parked cars in the driveway and paving the secondary driveway. He stated that having a paved secondary driveway and parking cars there is no evidence of a home occupation. Ms. Hensel paved the driveway as she is allowed to do as per ordinance standards and to say that this changes the residential character is an assumption. The cars parked in the driveway could be church meetings or book club meetings. The area downstairs is a second home so when she has guests over, this will not intrude on her main living space located upstairs. The attorney and the planner say that the parking area was built for the purpose of accessing the home occupation and this is a dangerous assumption. Ms. Hensel has shown that this is the most effective way to get to where she wants to have a party or a space where she wants to host an event. Ms. Hensel has gone to great expense to create a space that fits the residential character and meets the Township regulations. Ms. Hensel has provided evidence that this is not just for business purposes. This is normal for the area and does not change the character of the home occupation; it is a parking area and driveway.

Mr. Crawford continued addressing the violation to (i) which is the home occupation shall not generate vehicular traffic in excess of normal volume and type. He stated that Ms. Hensel operates a salon in which her clients drive vehicles of normal form. The issue is with the amount of traffic. The ITE says that there is a normal range. It does not give this a number because a single person or someone that doesn't have a car is going to generate very few trips. A trip is identified as one in, one out; that is one trip. He gave examples of varied trip numbers. The Supervisor picked 13 as being normal for the Township and for him to use this number without any support evidence and basically taking the low and the high and taking the number in the middle and saying this is normal for the Township is arbitrary and does not match the spirit or the intent of the ordinance. As was pointed in several of the Board meetings, the Planner pointed out that the trip generation manual was designed to be used as a guideline for what is normal and to provide a range of 4.3 trips per day to 21 trips per day. They provided Ms. Hensel's work logs showing that on any particular day, she can have between 10 to 13 trips based on her part-time employee and her clientele. If they were to take the Supervisor's number, Ms. Hensel right around that number and if they take the average, Ms. Hensel is way below that number for the week. If you take ITE's number and say that up to 21 trips per day is average, she has a lot of extra trips that she can use that puts her in the range of normal. On 2.5 days per week Ms. Hensel is generating close to or slightly over the amount that the Township said is normal. Ms. Hensel doesn't violate Section (i) because she generates traffic that is normal based on ITE's rank, the Township number and without conducting a house to house detail, this is what they have to go on is what the authorities in the field say and based on that Ms. Hensel is not in violation of Sections (b), (h) and (i) or Section (g) as the Planner states because she has not made any exterior additions to the dwelling unit. He asked the Board to consider the source of this complaint and the history of this property and the fact that Ms. Hensel is a productive member of the Township.

who is servicing residents of Springfield Township. She should be valued in the community.

Collin Walls, Springfield Township Supervisor, provided Mr. Crawford with a copy of his response. He thanked the Board and mentioned that he obtained the definition of “trip” from the Planner and he emailed that definition to the Board members. It was also in the packet that Mr. Crawford received. Home occupation Sections (b), (g) and (i) were the sections that were listed in the application as requesting variances. Supervisor Walls does not agree with everything that the Planner said in his report. Section (b) does not need a variance and it was not used in the determination because he found that there were no dwelling unit changes to accommodate the home occupation. It is changes in the dwelling unit that the ordinance requires not changes to the premises or the exterior grounds.

Supervisor Walls stated that the historical information that Mr. Crawford provides in his packet is not pertinent. The applicant is appealing the August 9, 2016 determination that he made that the home occupation at 9782 Clark Road is not in compliance with the Township ordinance. That determination was based on information, research and data that was obtained in 2016. Conditions and information changed over time. Information was available for his deliberation on whether or not there was compliance that neither the Planner nor the Engineer had seen. Ms. Hensel provided Supervisor Walls with copies of her client schedule, Exhibit H in Mr. Crawford’s presentation, and that client schedule had a lot to do with his determination. Two subsections of the Home Occupation ordinance do apply. He summarized subsection (b). He stated that the volume of traffic concentrated over two sometimes three days per week combined with the parking on the west side of the house do change the residential character. The parking area on the west is not typical of the area because unlike other properties along Clark Road with secondary parking areas, the parking area at the applicant’s home is not connected, part of or close to the residential drive serving the main area of the house and the garage. Aerial photos presented as his Exhibits 5, 6 and 7 support this difference and his opinion. Exhibits 5 and 6 are identical to the Exhibits submitted by Mr. Crawford.

The ordinance on traffic generation in a home occupation says that it cannot exceed what is normally generated for a single family dwelling unit. The ordinance and the Trip General Manual do not define normal. Supervisor Walls stated that he turned to the Webster Dictionary and it does not define “normal” as “average.” The Dictionary defines normal as “typical”, “naturally occurring” and “ordinary.” In Mr. Carlisle’s opinion letter, he uses the information from the Institute of Traffic Engineers Trip Generation Manual. This Manual does not define “normal” or even use the term. The Trip Generation Manual is a well-recognized data source but it provides data on trips per day, not per week, it provides that data in a range and an average. This is a range of data collected beginning in the 1960’s and ending somewhere in the 1990’s. He provided an Exhibit 1 which is two pages of the Trip Generation Manual which contained how and where that data was collected and a chart of the data. This information indicates that the majority of the data was taken from subdivisions in both Canada and United States. In his opinion, it is a guide but it is not particularly useful for Springfield Township. This

exhibit also indicates that the information that ITE obtained in the survey did not contain many of the characteristics that might be more useful to determine the impact of the trips. He did find in study done in 1985, some additional data and this report showed that in homes with three or more vehicles, 2.9 extra trips should be allocated. The fact that the number 13 happens to be the midpoint of the range isn't how he arrived at that number. He arrived at 13 by taking the Trip Generation Manual average and the other information that was supplied in the 1985 report combined with some report on census data regarding the homes in Springfield that had more than three cars. He added to that his knowledge of Clark Road and the Township as a whole in making the determination of a number that is 13.

The client schedule supplied by Ms. Hensel was used to determine the trips per day on the days that the salon was open. The chart in Exhibit 3 and the Chart in Exhibit 4 of the response were developed making two simple assumptions. One, every client that visited making two trips and also that one employee worked every day that the salon was open. The appeal prepared by Mr. Crawford suggested that it should be trips per week but this implies that you can spread over seven days the traffic generated in 2-2.5 days per week which skews the real impact of that traffic and goes beyond the intent of the Trip Generation Manual. The chart in Exhibit 3 assumes just two trips and no extra trips were considered for clients that were dropped off and someone returned to pick them up, visiting guests, lunches delivered or similar types of reasons. All of these items were designated by Ms. Hensel to happen from time to time.

As Mr. Walls indicated, he only used data from 2016. He did look at data submitted by the neighbor but it did cover not nearly as many days but it supported that there were some additional trips. He did not try to make that additional trip assumption because he felt that the simple assumptions used in the client schedule indicated that the traffic generated by the home occupation was excessive. Out of the 49 client days in the schedule, 31 of those days had 20 trips or more per day which is almost 64%. 23 of those 49 days had trips per day that exceeded the top figure in the range of the Trip Generation Manual. Mr. Crawford stated that he Trip Generation Manual range is a determination of what is normal. The plotted data in Exhibit 1 shows that not to be true. If normal is what is ordinary, the top of that range would be outliers. The vast majority of the plots were at the lower end of the range. Mr. Walls stated that he believes that the volume of traffic generated is not normal of this or any other residential neighborhood in Springfield Township when you look at the number of trips generated by the clients on the days that the salon is open. This is the only way you can look at trip generation as to what may or may not be normal. He believes that the information that he supplied supports that opinion. It is unusual and in some ways unfortunate but the information that supports that the home occupation is not in conformance came from the operator of the home occupation itself.

Board member Fischbach asked if the operator could be open the same 20 hours but 4 to 5 days and that would be okay.

Supervisor Walls stated that if the same number of trips were spread over more days, in his opinion, this would go a long way to bring the business into compliance.

Board member Vallad asked if Supervisor Walls had a copy of the report that he mentioned.

Supervisor Walls answered that he found the report from the internet but only copied the two pages supplied as an exhibit.

Board member Vallad stated that he understood Supervisor Walls' approach but he would like to see the balance of the report.

Board member Whitley asked Mr. Crawford about the hours of operation.

Mr. Crawford answered that the hours were 9 am to 5 pm.

Dean Nelson, 9740 Clark Road, stated that he has known Ms. Hensel for 20 years and there is no evidence of a business conducted at Ms. Hensel's house. He stated that he does not see cars going in and out continually and you cannot tell what days she is open based on any traffic difference. He sees no reason for her to discontinue her business.

Sandra Nelson, 9740 Clark Road, spoke in support of Ms. Hensel and her family.

Steven Ross, 5595 Aderstone Drive, Clarkston stated that he has known Ms. Hensel for many years. She cuts his hair and they are members of the same church. He has used the facilities in the back of her house for open houses, care group meetings and a square dance. He attested that there is not a lot of traffic in the secondary parking lot and at the most two to three cars parked there. He spoke in support of Ms. Hensel using the secondary driveway. He suggested that spreading it out over more days would be more traffic.

Mary Carnacchi, 11125 Clark Road, spoke in support of Ms. Hensel. She stated that at her home she has two drives. There are six people in the home, five of them are drivers and does this mean that they can only leave their house once per day. She leaves her house multiple times per day and this number is more than 13 trips per day.

Patty Shepard, 11065 Clark Road, spoke in support of Ms. Hensel saying that there is no evidence that a business is run out of this house.

Tom Carnacchi, 11125 Clark Road, asked if Ms. Hensel spread out the business through seven days, would her business be allowed.

Chairperson Wendt stated that if they take the same number of trips per day, you would exacerbate the situation.

Supervisor Walls stated that if the business was spread out so that the net result was less cars per day, same number of clients, it could be possible that the business could come into compliance.

Chairperson Wendt clarified that if they use the same daily number and multiply it by more days during the week, it would make it worse.

Board member Whitley stated that the matter before them is the appeal of the administrative decision made by the Supervisor based on the information presented. If the character of the business changed, it would be a different decision process.

Denise Jones, 5975 Divora Street, Clarkston, commented on spreading out the number of clients throughout more day through the week and she indicated it would depend if it was okay with the Goodens.

Chairperson Wendt stated that they should deal with the subject matter not personalities.

Mr. Crawford stated that the history of this issue is important. The Supervisor and the Clerk have been inundated by the neighbor who has an agenda. This has been going on for ten years and colored through one person's constant complaint and as you have seen from people, there is no physical evidence of a business. The secondary driveway is used by all visitors to Ms. Hensel. We have heard tonight from residents who generate a lot of traffic and that is normal for their household. The traffic generated by Ms. Hensel is normal for her residence, maybe she is the outlier but it doesn't mean that she is exceeding the trips per day of a normal residence. Some residences have trips per day that exceed 13 but they are not going to that house and telling them to make adjustments because their trips exceed 13. This evidence did not come from Mr. Walls, they have pictures taken by Mr. and Mrs. Gooden. People are having their photographs taken without their consent. The standard is not objective and it should be. They are not dealing with something specific to the property, they are dealing with something specific to home occupations.

Board member Whitley stated that the purpose of this time is to give both Mr. Crawford and Supervisor Walls the chance to respond to items raised during public comment, not to re-state their position all over again.

Mr. Crawford apologized. He is responding to Supervisor Walls and Board members. He stated that this is a protection violation at the very minimum. This is what is normal for trips from residences based on objective statements. The Trip Generation Manual says up to 21 can be in the range and Ms. Hensel is not going over that.

Supervisor Walls stated that the determination was based on 2016 data. He did not use the history behind this. He stated that good people do not always comply with all of the ordinances. His determination did not and should not be made to imply in any way the character or the quality of the individual and the family of the Hensel's nor their



neighbors. He used the facts before him. Any administrative decisions made are not always easy but he used what was reasonable according to the ordinance.

**Board member Whitley moved that the Zoning Board of Appeals direct the Township and the applicant to provide written Findings of Fact and conclusions that will offer consideration by the Zoning Board of Appeals to be submitted within 21 days and then for the Zoning Board of Appeals to consider those findings of facts and conclusions at the next regular meeting of the Zoning Board of Appeals. Supported by Board member Fischbach. Voted yes: Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: Baker. Motion approved.**

ADJOURNMENT:

**Board member Whitley moved to adjourn the meeting at 9:53 pm. Supported by Board member Fischbach. Voted yes: Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: Baker. Motion approved.**

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Erin Mattice, Recording Secretary